

SOUTH CAROLINA.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Correspondence in relation to Fort Sumter, &c.

FEBRUARY 8, 1861.—Referred to the select committee on the special message of the President of the United States, and ordered to be printed.

To the Senate and House of Representatives:

I deemed it a duty to transmit to Congress, with my message of the 8th of January, the correspondence which occurred in December last between the “commissioners” of South Carolina and myself.

Since that period, on the 14th January Colonel Isaac W. Hayne, the attorney general of South Carolina, called and informed me that he was the bearer of a letter from Governor Pickens to myself, which he would deliver the next day. He was, however, induced, by the interposition of Hon. Jefferson Davis and nine other senators from the seceded and seceding States, not to deliver it on the day appointed, nor was it communicated to me until the 31st of January, with his letter of that date. Their letter to him urging this delay bears date January 15, and was the commencement of a correspondence, the whole of which in my possession I now submit to Congress. A reference to each letter of the series, in proper order, accompanies this message.

JAMES BUCHANAN.

WASHINGTON, *February 8, 1861.*

Papers accompanying the President's message, February 9, 1861.

No. 1.—A letter addressed by Hon. Jefferson Davis and others, dated January 15, 1861, to Colonel I. W. Hayne.

No. 2 —Colonel Hayne to Hon. Jefferson Davis and others, January 17, 1861.

No. 3.—Note from Hon. John Slidell and others, communicating to the President the foregoing correspondence, and asking him to take into consideration the subject of it, January 19, 1861.

No. 4.—A letter addressed by the Secretary of War *ad interim* to Hon. John Slidell and others, expressing the views of the President, January 22, 1861.

No. 5.—Colonel Hayne to the senators who had communicated to him the letter of the Secretary of War *ad interim*, transmitted to the President with a note from Mr. Slidell, (January 28, 1861,) January 24, 1861.

No. 6.—Colonel Hayne to the President, with Governor Pickens's letter of January 12, which had not before been communicated, January 31, 1861.

No. 7.—Answer of the Secretary of War to Colonel Hayne, February 6, 1861.

No. 1.

WASHINGTON CITY, *January 15, 1861.*

SIR: We are apprised that you visit Washington as an envoy from the State of South Carolina, bearing a communication from the governor of your State to the President of the United States in relation to Fort Sumter. Without knowing its contents, we venture to request you to defer its delivery to the President for a few days, or until you and he have considered the suggestions which we beg leave to submit.

We know that the possession of Fort Sumter by troops of the United States, coupled with the circumstances under which it was taken, is the chief if not the only source of difficulty between the government of South Carolina and that of the United States. We would add, that we, too, think it a just cause of irritation and of apprehension on the part of your State. But we have also assurances, notwithstanding the circumstances under which Major Anderson left Fort Moultrie and entered Fort Sumter with the forces under his command, that it was not taken, and is not held, with any hostile or unfriendly purpose towards your State, but merely as property of the United States, which the President deems it his duty to protect and preserve.

We will not discuss the question of right or duty on the part of either government touching that property, or the late acts of either in relation thereto; but we think that, without any compromise of right or breach of duty on either side, an amicable adjustment of the matter of differences may and should be adopted. We desire to see such an adjustment, and to prevent war or the shedding of blood.

We represent States which have already seceded from the United States, or will have done so before the 1st of February next, and which will meet your State in convention on or before the 15th of that month. Our people feel that they have a common destiny with your people, and expect to form with them, in that convention, a new confederation

and provisional government. We must and will share your fortunes—suffering with you the evils of war, if it cannot be avoided, and enjoying with you the blessings of peace, if it can be preserved. We therefore think it especially due from South Carolina to our States—to say nothing of other slaveholding States—that she should, as far as she can consistently with her honor, avoid initiating hostilities between her and the United States, or any other power. We have the public declaration of the President that he has not the constitutional power or the will to make war on South Carolina, and that the public peace shall not be disturbed by any act of hostility towards your State.

We therefore see no reason why there may not be a settlement of existing difficulties, if time be given for calm and deliberate counsel with those States which are equally involved with South Carolina. We therefore trust that an arrangement will be agreed on between you and the President, at least till the 15th February next, by which time your and our States may in convention devise a wise, just, and peaceable solution of existing difficulties.

In the meantime, we think your State should suffer Major Anderson to obtain necessary supplies of food, fuel, or water, and enjoy free communication, by post or special messenger, with the President, upon the understanding that the President will not send him re-enforcements during the same period. We propose to submit this proposition and your answer to the President.

If not clothed with power to make such arrangement, then we trust that you will submit our suggestions to the governor of your State for his instructions. Until you have received and communicated his response to the President, of course your State will not attack Fort Sumter, and the President will not offer to re-enforce it.

We most respectfully submit these propositions in the earnest hope that you, or the proper authorities of your State, may accede to them.

We have the honor to be, with profound esteem, your obedient servants,

LOUIS T. WIGFALL.
JOHN HEMPHILL.
D. L. YULEE.
S. R. MALLORY.
JEFFERSON DAVIS.
C. C. CLAY, JR.
BEN. FITZPATRICK.
A. IVERSON.
JOHN SLIDELL.
J. P. BENJAMIN.

Hon. ISAAC W. HAYNE.

No. 2.

WASHINGTON, *January 17, 1861.*

GENTLEMEN: I have received your communication dated the 15th instant. You say you represent States which have already seceded

from the United States, or will have done so before the first of February next, and which will meet South Carolina in convention on or before the 15th of that month; that your people feel they have a common destiny with our people, and expect to form with them in that convention a new confederacy and provisional government; that you must and will share our fortunes, suffering with us the evils of war, if it cannot be avoided, and enjoying with us the blessings of peace, if it can be preserved.

I feel, gentlemen, the force of this appeal, and, so far as my authority extends, most cheerfully comply with your request. I am not clothed with power to make the arrangement you suggest, but, provided you can get assurances with which you are entirely satisfied that no re-enforcements will be sent to Fort Sumter in the interval, and that public peace will not be disturbed by any act of hostility towards South Carolina, I will refer your communication to the authorities of South Carolina, and, withholding the communication with which I am at present charged, will await further instructions.

Major Anderson and his command, let me assure you, do *now* obtain all necessary supplies, including fresh meat and vegetables, and I believe fuel and water, from the city of Charleston, and do *now* enjoy communication, by post and special messenger, with the President, and will continue to do so, certainly until the door to negotiation has been closed.

If your proposition is acceded to, you may assure the President that no attack will be made on Fort Sumter until a response from the governor of South Carolina has been received and communicated to him.

I am, with high consideration and profound esteem, your obedient servant,

ISAAC W. HAYNE.

Hon. LOUIS T. WIGFALL.

JOHN HEMPHILL.

D. L. YULEE.

S. R. MALLORY.

JEFFERSON DAVIS.

C. C. CLAY, Jr.

BENJAMIN FITZPATRICK.

A. IVERSON.

JOHN SLIDELL.

J. P. BENJAMIN.

No. 3.

SENATE CHAMBER, *January 19, 1861.*

SIR: We have been requested to present to you a copy of a correspondence between certain senators of the United States and Colonel Isaac W. Hayne, now in this city, on behalf of the government of

South Carolina, and to ask that you will take into consideration the subject of said correspondence.

Very respectfully, your obedient servants,

JOHN SLIDELL.
BEN. FITZPATRICK.
S. R. MALLORY.

His Excellency JAMES BUCHANAN,
President of the United States.

No. 4.

WAR DEPARTMENT, *January 22, 1861.*

GENTLEMEN: The President has received your communication of the 19th instant, with the copy of a correspondence between yourselves and others "representing States which have already seceded from the United States, or will have done so before the 1st of February next," and Colonel Isaac W. Hayne, of South Carolina, in behalf of the government of that State, in relation to Fort Sumter; and you ask the President to "take into consideration the subject of said correspondence." With this request he has respectfully complied, and has directed me to communicate to you his answer.

In your letter to Colonel Hayne, of the 15th instant, you propose to him to defer the delivery of a message from the governor of South Carolina to the President, with which he has been intrusted, for a few days, or until the President and Colonel Hayne shall have considered the suggestions which you submit. It is unnecessary to refer specially to these suggestions, because the letter addressed to you by Colonel Hayne, of the 17th instant, presents a clear and specific answer to them. In this he says: "I am not clothed with power to make the arrangement you suggest; but provided you can get assurances, with which you are entirely satisfied, that no re-enforcements will be sent to Fort Sumter in the interval, and that public peace will not be disturbed by any act of hostility towards South Carolina, I will refer your communication to the authorities of South Carolina, and, withholding the communication with which I am at present charged, will await further instructions."

From the beginning of the present unhappy troubles the President has endeavored to perform his executive duties in such a manner as to preserve the peace of the country and to prevent bloodshed. This is still his fixed purpose. You therefore do him no more than justice in stating that you have assurances (from his public messages, I presume) that, "notwithstanding the circumstances under which Major Anderson left Fort Moultrie and entered Fort Sumter with the forces under his command, it was not taken and is not held with any hostile or unfriendly purpose towards your State, but merely as property of the United States, which the President deems it his duty to protect and preserve." You have correctly stated what the President deems to be his duty. His sole object now is, and has been, to act strictly on the defensive, and to authorize no movement against

the people of South Carolina, unless clearly justified by a hostile movement on their part. He could not well have given a better proof of his desire to prevent the effusion of blood than by forbearing to resort to the use of force under the strong provocation of an attack (happily without a fatal result) on an unarmed vessel bearing the flag of the United States.

I am happy to observe that, in your letter to Colonel Hayne, you express the opinion that it is "especially due from South Carolina to our States, to say nothing of other slaveholding States, that she should, as far as she can consistently with her honor, avoid initiating hostilities between her and the United States, or any other power." To initiate such hostilities against Fort Sumter would, beyond question, be an act of war against the United States.

In regard to the proposition of Colonel Hayne, "that no re-enforcements will be sent to Fort Sumter in the interval, and that public peace will not be disturbed by any act of hostility towards South Carolina," it is impossible for me to give you any such assurances. The President has no authority to enter into such an agreement or understanding. As an executive officer, he is simply bound to protect the public property, so far as this may be practicable; and it would be a manifest violation of his duty to place himself under engagements that he would not perform this duty either for an indefinite or a limited period. At the present moment, it is not deemed necessary to re-enforce Major Anderson, because he makes no such request, and feels quite secure in his position. Should his safety, however, require re-enforcements, every effort will be made to supply them.

In regard to an assurance from the President "that public peace will not be disturbed by any act of hostility towards South Carolina," the answer will readily occur to yourselves. To Congress, and to Congress alone, belongs the power to make war, and it would be an act of usurpation for the Executive to give an assurance that Congress would not exercise this power, however strongly he may be convinced that no such intention exists.

I am glad to be assured, from the letter of Colonel Hayne, that "Major Anderson and his command do *now* obtain all necessary supplies, including fresh meat and vegetables, and, I believe, fuel and water, from the city of Charleston, and do *now* enjoy communication, by post and special messenger, with the President, and will continue to do so, certainly until the door to negotiation has been closed." I trust that these facilities may still be afforded to Major Anderson. This is as it should be. Major Anderson is not menacing Charleston; and I am convinced that the happiest result which can be obtained is, that both he and the authorities of South Carolina shall remain on their present amicable footing, neither party being bound by any obligations whatever, except the high Christian and moral duty to keep the peace, and to avoid all causes of mutual irritation.

Very respectfully, your obedient servant,

J. HOLT,
Secretary of War ad interim.

Hons. JOHN SLIDELL, BEN. FITZPATRICK, and S. R. MALLORY.

No. 5.

WASHINGTON, *January 24, 1861.*

GENTLEMEN: I have received your letter of the 23d instant, enclosing a communication, dated the 22d instant, addressed to Messrs. Fitzpatrick, Mallory, and Slidell, from the Secretary of War *ad interim*. This communication from the Secretary is far from being satisfactory to me. But inasmuch as *you* state that "we (you) have no hesitation in expressing an entire confidence that no re-enforcement will be sent to Fort Sumter, nor will the public peace be disturbed, within the period requisite for full communication between yourself (myself) and your (my) government," in compliance with our previous understanding I withhold the communication with which I am at present charged, and refer the whole matter to the authorities of South Carolina, and will await their reply.

Mr. Gourdin, of South Carolina, now in this city, will leave here by the evening's train, and will lay before the governor of South Carolina and his council the whole correspondence between yourselves and myself, and between you and the government of the United States, with a communication from me asking further instructions.

I cannot, in closing, but express my deep regret that the President should deem it necessary to keep a garrison of troops at Fort Sumter for the protection of the "property" of the United States. South Carolina scorns the idea of appropriating to herself the property of another, whether of a government or an individual, without accounting to the last dollar for everything which, for the protection of her citizens or in vindication of her own honor and dignity, she may deem it necessary to take into her own possession. As property, Fort Sumter is in far greater jeopardy occupied by a garrison of United States troops than it would be if delivered over to the State authorities, with the pledge that, in regard to that and all other property within her jurisdiction claimed by the United States, South Carolina would fully account on a fair adjustment.

Upon the other point, of the preservation of peace and the avoidance of bloodshed, is it supposed that the occupation of a fort by armed men, in the midst of a harbor, with guns bearing on every part of it, under the orders of a government no longer acknowledged, *can be* other than the occasion of constant irritation, excitement, and indignation? It creates a condition of things which I fear is but little calculated to advance the observance of the "high Christian and moral duty, to keep the peace and to avoid all causes of mutual irritation," recommended by the Secretary of War in his communication.

In my judgment, to continue to hold Fort Sumter by the United States troops is the worst possible means of securing its protection and preservation as property, as it certainly is the worst possible means of effecting a peaceful solution of existing difficulties short of war itself.

I beg leave, in conclusion, to say that it is in deference to the unanimous opinion expressed by the senators present in Washington "representing States which have already seceded from the United States, or will have done so before the 1st of February next," that I comply

with your suggestions ; and I feel assured that suggestions from such a quarter will be considered with profound respect by the authorities of South Carolina, and will have great weight in determining their action.

With high consideration, I have the honor to be, very respectfully,
your obedient servant,

ISAAC W. HAYNE.

HONS. LOUIS T. WIGFALL, D. L. YULEE, J. P. BENJAMIN, A. IVERSON,
JOHN HEMPHILL, JOHN SLIDELL, and C. C. CLAY, jr.

SENATE CHAMBER, *January 28, 1861.*

SIR: I have been requested by the gentlemen to whom, with myself, the accompanying letter from Colonel Isaac W. Hayne was addressed, to communicate the same to you.

Very respectfully, your obedient servant,

JOHN SLIDELL.

His Excellency JAMES BUCHANAN,
President of the United States.

No. 6.

WASHINGTON, *January 31, 1861.*

SIR: I had the honor to hold a short interview with you on the 14th instant, informal and unofficial. Having previously been informed that you desired that whatever was official should be, on both sides, conducted by written communications, I did not at that time present my credentials, but verbally informed you that I bore a letter from the governor of South Carolina, in regard to the occupation of Fort Sumter, which I would deliver the next day under cover of a written communication from myself. The next day, before such communication could be made, I was waited upon by a senator from Alabama, who stated that he came on the part of all the senators then in Washington from the States which had already seceded from the United States, or would certainly have done so before the first day of February next. The senator from Alabama urged that he and they were interested in the subject of my mission in almost an equal degree with the authorities of South Carolina. He said that hostilities commenced between South Carolina and your government would necessarily involve the States represented by themselves in civil strife ; and fearing that the action of South Carolina might complicate the relations of your government to the seceded and seceding States, and thereby interfere with a peaceful solution of existing difficulties, these senators requested that I would withhold my message to yourself until a consultation among themselves could be had. To this I agreed, and the result of the consultation was the letter of these senators addressed to me, dated January 15, a copy of which is in your possession. To this letter I replied on the 17th, and a copy of that reply

is likewise in your possession. This correspondence, as I am informed, was made the subject of a communication from Senators Fitzpatrick, Mallory, and Slidell, addressed to you, and your attention called to the contents. These gentlemen received on the — day of January a reply to their application, conveyed in a letter addressed to them dated —, signed by the Hon. J. Holt, Secretary of War *ad interim*. Of this letter you of course have a copy. This letter from Mr. Holt was communicated to me under cover of a letter from all the senators of the seceded and seceding States who still remained in Washington, and of this letter, too, I am informed you have been furnished with a copy.

This reply of yours, through the Secretary of War *ad interim*, to the application made by the senators was entirely unsatisfactory to me. It appeared to me to be not only a rejection in advance of the main proposition made by these senators, to wit: that "an arrangement should be agreed on" between the authorities of South Carolina and your government, "at least until the 15th of February next," by which time South Carolina and the States represented by the senators "might in convention devise a wise, just, and peaceable solution of existing difficulties." "In the meantime," they say, "we think," that is, these senators, "that your State (South Carolina) should suffer Major Anderson to obtain necessary supplies of food, fuel, or water, and enjoy free communication, by post or special messenger, with the President, upon the understanding that the President will not send him re-enforcements during the same period;" but, besides this rejection of the main proposition, there was, in Mr. Holt's letter, a distinct refusal to make any stipulation on the subject of re-enforcement, even for the short time that might be required to communicate with my government. This reply to the senators was, as I have stated, altogether unsatisfactory to me, and I felt sure would be so to the authorities whom I represented. It was not, however, addressed to me, or to the authorities of South Carolina; and as South Carolina had addressed nothing to your government, and had asked nothing at your hands, I looked not to Mr. Holt's letter, but to the note addressed to me by the senators of the seceded and seceding States. I had consented to withhold my message at *their* instance, provided they could get assurances *satisfactory to them* that no re-enforcements would be sent to Fort Sumter in the interval, and that the peace should not be disturbed by any act of hostility.

The senators expressed in their note to me of the 23d instant *their* entire confidence "that no re-enforcements will be sent to Fort Sumter, nor will the public peace be disturbed within the period requisite for full communication between your (myself) and your (my) government," and renewed their request that I would withhold the communication with which I stood charged, and await further instructions.

This I have done. The further instructions arrived on the 30th instant, and bear date the 26th. I now have the honor to make to you my first communication as special envoy from the government of South Carolina. You will find enclosed the original communication to the President of the United States from the governor of South Carolina, with which I was charged in Charleston on the 12th day of

January instant, the day on which it bears date. I am now instructed by the governor of South Carolina to say that his opinion as to the propriety of the demand which is contained in this letter "has not only been confirmed by the circumstances which your (my) mission has developed, but is now increased to a conviction of its necessity. The safety of the State requires that the position of the President should be distinctly understood. The safety of all seceding States requires it as much as the safety of South Carolina. If it be so that Fort Sumter is held as *property*, then, as property, the rights, whatever they may be, of the United States can be ascertained, and for the satisfaction of these rights the pledge of the State of South Carolina you are (I am) authorized to give." "If Fort Sumter is not held as property, it is held," say my instructions, "as a military post, and such a post within the limits of South Carolina will not be tolerated." You will perceive that it is upon the presumption that it is solely as property that you continue to hold Fort Sumter that I have been selected for the performance of the duty upon which I have entered. I do not come as a military man to demand the surrender of a fortress, but as the legal officer of the State—its attorney general—to claim for the State the exercise of its undoubted right of eminent domain, and to pledge the State to make good all injury to the rights of property which arise from the exercise of the claim.

South Carolina, as a separate, independent sovereign, assumes the right to take into her own possession everything within her limits essential to maintain her honor or her safety, irrespective of the question of property, subject only to the moral duty requiring that compensation should be made to the owner. This right she cannot permit to be drawn into discussion. As to compensation for any property, whether of an individual or a government, which she may deem it necessary for her honor or safety to take into her possession, her past history gives ample guarantee that it will be made, upon a fair accounting, to the last dollar.

The proposition now is, that her law officer should, under authority of the governor and his council, distinctly pledge the faith of South Carolina to make such compensation in regard to Fort Sumter, and its appurtenances and contents, to the full extent of the money value of the property of the United States delivered over to the authorities of South Carolina by your command. I will not suppose that a pledge like this can be considered insufficient security. Is not the money value of the property of the United States in this fort, situated where it cannot be made available to the United States for any one purpose for which it was originally constructed, worth more to the United States than the property itself? Why then, as property, insist on holding it by an armed garrison? Yet such has been the ground upon which you have invariably placed your occupancy of this fort by troops—beginning prospectively with your annual message of the 4th December, again in your special message of the 9th January, and still more emphatically in your message of the 28th January. The same position is set forth in your reply to the senators, through the Secretary of War *ad interim*. It is there virtually conceded that Fort Sumter "is held merely as property of the United States, which

you deem it your duty to protect and preserve." Again, it is submitted that the continuance of an armed possession actually jeopardizes the property you desire to protect. It is impossible but that such a possession, if continued long enough, must lead to collision. No people not completely abject and pusillanimous could submit indefinitely to the armed occupation of a fortress in the midst of the harbor of its principal city, and commanding the ingress and egress of every ship that enters the port—the daily ferry-boats that ply upon its waters moving but at the sufferance of aliens. An attack upon this fort would scarcely improve it as property, whatever the result; and if captured, it would no longer be the subject of account. To protect Fort Sumter merely as property, it is submitted that an armed occupancy is not only unnecessary, but that it is manifestly the worst possible means which can be resorted to for such an object.

Your reply to the senators, through Mr. Holt, declares it to be your sole object "to act strictly on the defensive, and to authorize no movement against South Carolina, unless justified by a hostile movement on their part." Yet, in reply to the proposition of the senators—that no re-enforcements should be sent to Fort Sumter, provided South Carolina agrees that during the same period no attack should be made—you say "it is impossible for me (your Secretary) to give you (the senators) any such assurance;" that "it would be manifest violation of his (your) duty, to place himself (yourself) under engagements that he (you) would not perform the duty, either for an indefinite or a limited period." In your message of the 28th instant, in expressing yourself in regard to a similar proposition, you say: "However strong may be my desire to enter into such an agreement, I am convinced that I do not possess the power. Congress, and Congress alone, under the war-making power, can exercise the discretion of agreeing to abstain 'from any and all acts calculated to produce a collision of arms' between this and any other government. It would, therefore, be a usurpation for the Executive to attempt to restrain their hands by an agreement in regard to matters over which he has no constitutional control. If he were thus to act, they might pass laws which he should be bound to obey, though in conflict with his agreement." The proposition, it is suggested, was addressed to you under the laws as they now are, and was not intended to refer to a new condition of things arising under new legislation. It was addressed to the executive discretion, acting under existing laws. If Congress should, under the war-making power, or in any other way, legislate in a manner to affect the peace of South Carolina, her interests, or her rights, it would not be accomplished in secret; South Carolina would have timely notice, and she would, I trust, endeavor to meet the emergency.

It is added, in the letter of Mr. Holt, that "at the present moment it is not deemed necessary to re-enforce Major Anderson, because he makes no such request, and feels quite secure in his position;" "but should his safety require it, every effort will be made to supply re-enforcements." This would seem to ignore the other branch of the proposition made by the senators, viz: that no attack was to be made on Fort Sumter during the period suggested, and that Major Ander-

son should enjoy the facilities of communication, &c., &c. I advert to this point, however, for the purpose of saying that to send re-enforcements to Fort Sumter could not serve as a means of *protecting* and *preserving property*; for, as must be known to your government, it would inevitably lead to immediate hostilities, in which property on all sides would necessarily suffer. South Carolina has every disposition to preserve the public peace, and feels, I am sure, in full force, those high "Christian and moral duties" referred to by your Secretary; and it is submitted that on her part there is scarcely any consideration of mere property, apart from honor and safety, which could induce her to do aught to jeopard that peace, still less to inaugurate a protracted and bloody civil war. She rests her position on something higher than mere property. It is a consideration of her own dignity as a sovereign, and the safety of her people, which prompts her to demand that this property should not longer be used as a military post by a government she no longer acknowledges. She feels this to be an imperative duty. It has, in fact, become an absolute necessity of her condition.

Repudiating, as you do, the idea of coercion, avowing peaceful intentions, and expressing a patriot's horror for civil war and bloody strife among those who once were brethren, it is hoped that, on further consideration, you will not, on a mere question of property, refuse the reasonable demand of South Carolina, which honor and necessity alike compel her to vindicate. Should you disappoint this hope, the responsibility for the result surely does not rest with her. If the evils of war are to be encountered, especially the calamities of civil war, an elevated statesmanship would seem to require that it should be accepted as the unavoidable alternative of something still more disastrous, such as national dishonor, or measures materially affecting the safety or permanent interests of a people; that it should be a choice deliberately made, and entered upon as war, and of set purpose. But that war should be the incident or accident attendant on a policy professedly peaceful, and not required to effect the object which is avowed, as the only end intended, can only be excused where there has been no warning given as to the consequences.

I am further instructed to say that South Carolina cannot, by her silence, appear to acquiesce in the imputation that she was guilty of an act of unprovoked aggression in firing on the "Star of the West." Though an unarmed vessel, she was filled with armed men, entering her territory against her will with the purpose of re-enforcing a garrison held within her limits against her protest. She forbears to recriminate by discussing the question of the propriety of attempting such a re-enforcement at all, as well as of the disguised and secret manner in which it was intended to be effected; and on this occasion she will say nothing as to the manner in which Fort Sumter was taken into the possession of its present occupants. The interposition of the senators who have addressed you was a circumstance unexpected by my government, and unsolicited certainly by me. The governor, while he appreciates the high and generous motives by which they were prompted, and while he fully approves the delay which, in defer-

ence to them, has taken place in the presentation of this demand, feels that it cannot longer be withheld.

I conclude with an extract from the instructions just received by me from the government of South Carolina. "The letter of the President, through Mr. Holt, may be received as the reply to the question you were instructed to ask, as to his assertion of his right to send re-enforcements to Fort Sumter. You were instructed to say to him, if he asserted that right, that the State of South Carolina regarded such a right, when asserted, or with an attempt at its exercise, as a declaration of war. If the President intends it shall not be so understood, it is proper, to avoid any misconception hereafter, that he should be informed of the manner in which the governor will feel bound to regard it. If the President, when you have stated the reasons which prompt the governor in making the demand for the delivery of Fort Sumter, shall refuse to deliver the fort upon the pledge you have been authorized to make, you will communicate that refusal without delay to the governor. If the President shall not be prepared to give you an immediate answer, you will communicate to him that his answer may be transmitted within a reasonable time to the governor at this place, (Charleston, South Carolina.) The governor does not consider it necessary that you (I) should remain longer in Washington than is necessary to execute this, the closing duty of your (my) mission, in the manner now indicated to you, (me.) As soon as the governor shall receive from you information that you have closed your mission, and the reply, whatever it may be, of the President, he will consider the conduct which will be necessary on his part."

Allow me to request that you would as soon as possible inform me whether, under these instructions, I need await your answer in Washington. And if not, I would be pleased to convey from you to my government information as to the time when an answer may be expected in Charleston.

With consideration, I have the honor to be, very respectfully,
ISAAC W. HAYNE,
Special Envoy.

His Excellency JAMES BUCHANAN, *President.*

STATE OF SOUTH CAROLINA, EXECUTIVE OFFICE,
Headquarters, Charleston, January 12, 1861.

SIR: At the time of the separation of the State of South Carolina from the United States, Fort Sumter was and still is in possession of troops of the United States under the command of Major Anderson. I regard that possession as not consistent with the dignity or safety of the State of South Carolina, and have this day addressed to Major Anderson a communication to obtain from him the possession of that fort by the authorities of this State. The reply of Major Anderson informs me that he has no authority to do what I required; but he desires a reference of the demand to the President of the United States. Under the circumstances now existing, and which need no comment by me, I have determined to send to you the Hon. I. W. Hayne, the attorney general of the State of South Carolina, and have

instructed him to demand the delivery of Fort Sumter, in the harbor of Charleston, to the constituted authorities of the State of South Carolina. The demand I have made of Major Anderson, and which I now make of you, is suggested because of my earnest desire to avoid the bloodshed which a persistence in your attempt to retain possession of that fort will cause, and which will be unavailing to secure to you that possession, but induce a calamity most deeply to be deplored. If consequences so unhappy shall ensue, I will secure for this State, in the demand which I now make, the satisfaction of having exhausted every attempt to avoid it.

In relation to the public property of the United States within Fort Sumter, the Hon. I. W. Hayne, who will hand you this communication, is authorized to give you the pledge of the State that the valuation of such property will be accounted for by this State upon the adjustment of its relations with the United States, of which it was a part.

F. W. PICKENS.

The PRESIDENT of the United States.

No. 7.

WAR DEPARTMENT, *February 6, 1861.*

SIR: The President of the United States has received your letter of the 31st ultimo, and has charged me with the duty of replying thereto.

In the communication addressed to the President by Governor Pickens, under date of the 12th of January, and which accompanies yours now before me, his excellency says: "I have determined to send to you the Hon. I. W. Hayne, the attorney general of the State of South Carolina, and have instructed him to demand the surrender of Fort Sumter, in the harbor of Charleston, to the constituted authorities of the State of South Carolina. The demand I have made of Major Anderson, and which I now make of you, is suggested because of my earnest desire to avoid the bloodshed which a persistence in your attempt to retain the possession of that fort will cause, and which will be unavailing to secure to you that possession, but induce a calamity most deeply to be deplored." The character of the demand thus authorized to be made appears (under the influence, I presume, of the correspondence with the senators to which you refer) to have been modified by subsequent instructions of his excellency, dated the 26th, and received by yourself on the 30th of January, in which he says: "If it be so that Fort Sumter is held as property, then, as property, the rights, whatever they may be, of the United States, can be ascertained, and for the satisfaction of these rights the pledge of the State of South Carolina you are authorized to give." The full scope and precise purport of your instructions, as thus modified, you have expressed in the following words: "I do not come as a military man to demand the surrender of a fortress, but as the legal officer of the State—its attorney general—to claim for the State the exercise of its undoubted right of eminent domain, and to pledge the State to

make good all injury to the rights of property which arise from the exercise of the claim." And lest this explicit language should not sufficiently define your position, you add: "The proposition now is that her (South Carolina's) law officer should, under authority of the governor and his council, distinctly pledge the faith of South Carolina to make such compensation, in regard to Fort Sumter and its appurtenances and contents, to the full extent of the money value of the property of the United States delivered over to the authorities of South Carolina by your command." You then adopt his excellency's train of thought upon the subject, so far as to suggest that the possession of Fort Sumter by the United States, "if continued long enough, must lead to collision," and that "an attack upon it would scarcely improve it as property, whatever the result, and if captured, it would no longer be the subject of account."

The proposal, then, now presented to the President, is simply an offer on the part of South Carolina to buy Fort Sumter and contents as property of the United States, sustained by a declaration, in effect, that if she is not permitted to make the purchase she will seize the fort by force of arms. As the initiation of a negotiation for the transfer of property between friendly governments, this proposal impresses the President as having assumed a most unusual form. He has, however, investigated the claim on which it professes to be based, apart from the declaration that accompanies it. And it may be here remarked, that much stress has been laid upon the employment of the words "property" and "public property" by the President in his several messages. These are the most comprehensive terms which can be used in such a connexion, and surely, when referring to a fort or any other public establishment, they embrace the entire and undivided interest of the government therein.

The title of the United States to Fort Sumter is complete and incontestable. Were its interest in this property purely proprietary, in the ordinary acceptance of the term, it might probably be subjected to the exercise of the right of eminent domain; but it has also political relations to it of a much higher and more imposing character than those of mere proprietorship. It has absolute jurisdiction over the fort and the soil on which it stands. This jurisdiction consists in the authority to "exercise exclusive legislation" over the property referred to, and is therefore clearly incompatible with the claim of eminent domain now insisted upon by South Carolina. This authority was not derived from any questionable revolutionary source, but from the peaceful cession of South Carolina herself, acting through her legislature, under a provision of the Constitution of the United States. South Carolina can no more assert the right of eminent domain over Fort Sumter than Maryland can assert it over the District of Columbia. The political and proprietary rights of the United States in either case rest upon precisely the same ground.

The President, however, is relieved from the necessity of further pursuing this inquiry by the fact that, whatever may be the claim of South Carolina to this fort, he has no constitutional power to cede or surrender it. The property of the United States has been acquired by force of public law, and can only be disposed of under the same

solemn sanctions. The President, as the head of the executive branch of the government only, can no more sell and transfer Fort Sumter to South Carolina than he can sell and convey the Capitol of the United State to Maryland or to any other State or individual seeking to possess it. His excellency the governor is too familiar with the Constitution of the United States, and with the limitations upon the powers of the Chief Magistrate of the government it has established, not to appreciate at once the soundness of this legal proposition.

The question of re-enforcing Fort Sumter is so fully disposed of in my letter to Senator Slidell and others, under date of the 22d of January, a copy of which accompanies this, that its discussion will not now be renewed. I then said: "At the present moment it is not deemed necessary to re-enforce Major Anderson, because he makes no such request. Should his safety, however, require re-enforcements, every effort will be made to supply them." I can add nothing to the explicitness of this language, which still applies to the existing status. The right to send forward re-enforcements when, in the judgment of the President, the safety of the garrison requires them, rests on the same unquestionable foundation as the right to occupy the fortress itself.

In the letter of Senator Davis and others to yourself, under date of the 15th ultimo, they say: "We therefore think it especially due from South Carolina to our States—to say nothing of other slaveholding States—that she should, as far as she can consistently with her honor, avoid initiating hostilities between her and the United States or any other power;" and you now yourself give to the President the gratifying assurance that "South Carolina has every disposition to preserve the public peace;" and since he is himself sincerely animated by the same desire, it would seem that this common and patriotic object must be of certain attainment. It is difficult, however, to reconcile with this assurance the declaration on your part that "it is a consideration of her (South Carolina's) own dignity as a sovereign, and the safety of her people, which prompts her to demand that this property should not longer be used as a military post by a government she no longer acknowledges," and the thought you so constantly present, that this occupation must lead to a collision of arms and the prevalence of civil war. Fort Sumter is in itself a military post, and nothing else; and it would seem that not so much the fact as the purpose of its use should give to it a hostile or friendly character. This fortress is now held by the government of the United States for the same objects for which it has been held from the completion of its construction. These are national and defensive; and were a public enemy now to attempt the capture of Charleston or the destruction of the commerce of its harbor, the whole force of the batteries of this fortress would be at once exerted for their protection. How the presence of a small garrison, actuated by such a spirit as this, can compromise the dignity or honor of South Carolina, or become a source of irritation to her people, the President is at a loss to understand. The attitude of that garrison, as has been often declared, is neither menacing, nor defiant, nor unfriendly. It is acting under orders to stand strictly on the defensive; and the government and people of South Carolina must

well know that they can never receive aught but shelter from its guns, unless, in the absence of all provocation, they should assault it and seek its destruction. The intent with which this fortress is held by the President is truthfully stated by Senator Davis and others in their letter to yourself of the 15th January, in which they say: "It is not held with any hostile or unfriendly purpose towards your State, but merely as property of the United States, which the President deems it his duty to protect and preserve."

If the announcement so repeatedly made, of the President's pacific purposes in continuing the occupation of Fort Sumter until the question shall have been settled by competent authority, has failed to impress the government of South Carolina, the forbearing conduct of his administration for the last few months should be received as conclusive evidence of his sincerity. And if this forbearance, in view of the circumstances which have so severely tried it, be not accepted as a satisfactory pledge of the peaceful policy of this administration towards South Carolina, then it may be safely affirmed that neither language nor conduct can possibly furnish one. If, with all the multiplied proofs which exist of the President's anxiety for peace, and of the earnestness with which he has pursued it, the authorities of that State shall assault Fort Sumter, and peril the lives of the handful of brave and loyal men shut up within its walls, and thus plunge our common country into the horrors of civil war, then upon them and those they represent must rest the responsibility.

Very respectfully, your obedient servant,

J. HOLT,
Secretary of War.

Hon. I. W. HAYNE,
Attorney General of the State of South Carolina.

P. S.—The President has not, as you have been informed, received a copy of the letter to yourself from the senators, communicating that of Mr. Holt of the 22d of January.

H. Ex. Doc. 61—2

